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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAIME ALVAREZ-ORNELAS,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-74622

Agency No. A91-006-373

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 22, 2008^{**}

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Jaime Alvarez-Ornelas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision pretermining his application for lawful

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

permanent resident cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo questions of law, including due process claims. *Agyeman v. INS*, 296 F.3d 871, 876 (9th Cir. 2002). We deny the petition for review.

We agree with the BIA's conclusion that Alvarez-Ornelas is ineligible for cancellation of removal because he lacked five years of lawful permanent residence. *See* 8 U.S.C. § 1229b(a)(1); *Monet v. INS*, 791 F.2d 752, 753 (9th Cir. 1986) (defining the term "lawfully" to denote "compliance with substantive legal requirements, not mere procedural regularity") (internal quotation marks and citation omitted). The BIA determined that because Alvarez-Ornelas testified he first entered the United States in 1987, he could not have lawfully adjusted his status under the Special Agricultural Worker ("SAW") statute. *See* 8 U.S.C. § 1160(a)(1)(B) (a SAW applicant must establish that he performed at least 90 days of seasonal agricultural service during the twelve-month period ending May 1, 1986). Contrary to Alvarez-Ornelas' contentions, the IJ did not redetermine Alvarez-Ornelas' adjustment of status, instead concluding that he was ineligible for relief. *See Monet*, 791 F.2d at 754-55.

Alvarez-Ornelas' contention that he was denied a full and fair hearing is not supported by the record.

PETITION FOR REVIEW DENIED.